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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/687,122	10/13/00	BOE	A P/717-181 (CO

002352 HM22/0405  
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EXAMINER  
MOEZIE, F

ART UNIT	PAPER NUMBER
1653	3

DATE MAILED:

04/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

# Office Action Summary

Application No.

09/687,122

Applicant(s)

Boe

Examiner

F. T. Moezie

Group Art Unit

1653



☒ Responsive to communication(s) filed on Oct 13, 1900

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 18-29 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 18-29 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1653

## **DÉTAILED ACTION**

### **STATUS OF CLAIMS**

Claims 18-29 are pending in this application.

### **RESTRICTION REQUIREMENT**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 18-20, drawn to a method for treating lethal viral infections in a patient which comprises administering a TNF receptor and DHEA in combination, classified in class 514, subclass depending on the active agents used in the method.
- II. Claims 21-23, 25, 26 and 28, drawn to a method of treating autoimmune diseases comprising administering a TNF receptor and DHEA in combination, classified in class 514, subclass depending on the active agents used in the method.
- III. Claims 21, 22, 24, 25, 27 and 29, drawn to a method for treating an inflammatory disease comprising administering a TNF receptor and DHEA in combination, classified in class 514, subclass depending on the active agents used in the method.

1. The inventions are distinct, each from the other because of the following reasons:

Inventions I or II and III are drawn to various methods of use, wherein the hosts are different, the protocols are different, the effects and the functions are different, finally the modes of operation are different. Further, the computer and library searches are not co-extensive. A

Art Unit: 1653

reference which would obviate claims drawn to one of the inventions may not render claims drawn to the other inventions-absent ancillary evidence. It would be an undue burden to examine all of the inventions in one application.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F.T. Moezie whose telephone number is (703) 305-4508.

*F.T. Moezie*  
F. T. MOEZIE, Ph.D.  
PRIMARY EXAMINER  
ART UNIT 1653